

SENATE BILL No. 362

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-8-1; IC 6-3-4-8.1; IC 6-8.1.

Synopsis: Collection of delinquent taxes. Provides for biennial renewal of a registered retail merchant's certificate. Provides that the department of state revenue (department) must renew at no additional charge the registered retail merchant's certificate of a retail merchant who is current on the retail merchant's filing and remittance obligations. Prohibits the department from renewing the registered retail merchant's certificate of a retail merchant who is delinquent in remitting sales or use tax. Provides that the department may levy on a person's property held by a financial institution without first obtaining a tax warrant after 10 days have elapsed after the date on which a demand notice is issued. Provides that a county sheriff has 120 days to collect a judgment arising from a tax warrant. (Current law allows a county sheriff to continue collection efforts on the warrant for up to one year after the judgment lien is entered if the taxpayer is making periodic payments in sufficient amounts to satisfy the judgment within one year.) Provides that if an apparent owner of unclaimed property is subject to an outstanding tax warrant, the department may levy against the unclaimed property.

Effective: July 1, 2006; January 1, 2007.

Ford

January 11, 2006, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 362

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-2.5-8-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A retail
3 merchant may not make a retail transaction in Indiana, unless ~~he~~ **the**
4 **retail merchant** has applied for a registered retail merchant's
5 certificate.

6 (b) A retail merchant may obtain a registered retail merchant's
7 certificate by filing an application with the department and paying a
8 registration fee of twenty-five dollars (\$25) for each place of business
9 listed on the application. The retail merchant shall also provide such
10 security for payment of the tax as the department may require under
11 IC 6-2.5-6-12.

12 (c) The retail merchant shall list on the application the location
13 (including the township) of each place of business where ~~he~~ **the retail**
14 **merchant** makes retail transactions. However, if the retail merchant
15 does not have a fixed place of business, ~~he~~ **the retail merchant** shall
16 list ~~his~~ **the retail merchant's** residence as ~~his~~ **the retail merchant's**
17 place of business. In addition, a public utility may list only its principal



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Indiana office as its place of business for sales of public utility commodities or service, but the utility must also list on the application the places of business where it makes retail transactions other than sales of public utility commodities or service.

(d) Upon receiving a proper application, the correct fee, and the security for payment, if required, the department shall issue to the retail merchant a separate registered retail merchant's certificate for each place of business listed on the application. Each certificate shall bear a serial number and the location of the place of business for which it is issued.

(e) If a retail merchant intends to make retail transactions during a calendar year at a new Indiana place of business, ~~he~~ **the retail merchant** must file a supplemental application and pay the fee for that place of business.

(f) A registered retail merchant's certificate is valid for two (2) years after the date the registered retail merchant's certificate is originally issued. If the retail merchant has filed all returns and remitted all taxes the retail merchant is currently obligated to file or remit, the department shall renew the registered retail merchant's certificate at no cost to the retail merchant.

(g) The department may not renew a registered retail merchant certificate of a retail merchant who is delinquent in remitting sales or use tax.

~~(f)~~ **(h)** A retail merchant engaged in business in Indiana as defined in IC 6-2.5-3-1(c) who makes retail transactions that are only subject to the use tax must obtain a registered retail merchant's certificate before making those transactions. The retail merchant may obtain the certificate by following the same procedure as a retail merchant under subsections (b) and (c), except that the retail merchant must also include on the application:

- (1) the names and addresses of the retail merchant's principal employees, agents, or representatives who engage in Indiana in the solicitation or negotiation of the retail transactions;
- (2) the location of all of the retail merchant's places of business in Indiana, including offices and distribution houses; and
- (3) any other information that the department requests.

~~(g)~~ **(i)** The department may permit an out-of-state retail merchant to collect the use tax. However, before the out-of-state retail merchant may collect the tax, ~~he~~ **the out-of-state retail merchant** must obtain a registered retail merchant's certificate in the manner provided by this section. Upon receiving the certificate, the out-of-state retail merchant becomes subject to the same conditions and duties as an Indiana retail

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1 merchant and must then collect the use tax due on all sales of tangible
 2 personal property that ~~he~~ **the out-of-state retail merchant** knows is
 3 intended for use in Indiana.

4 ~~(h)~~ **(j)** The department shall submit to the township assessor before
 5 July 15 of each year:

6 (1) the name of each retail merchant that has newly obtained a
 7 registered retail merchant's certificate between March 2 of the
 8 preceding year and March 1 of the current year for a place of
 9 business located in the township; and

10 (2) the address of each place of business of the taxpayer in the
 11 township.

12 SECTION 2. IC 6-3-4-8.1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8.1. (a) Any entity
 14 that is required to file a monthly return and make a monthly remittance
 15 of taxes under sections 8, 12, 13, and 15 of this chapter shall file those
 16 returns and make those remittances twenty (20) days (rather than thirty
 17 (30) days) after the end of each month for which those returns and
 18 remittances are filed, if that entity's average monthly remittance for the
 19 immediately preceding calendar year exceeds one thousand dollars
 20 (\$1,000).

21 (b) The department may require any entity to make the entity's
 22 monthly remittance and file the entity's monthly return twenty (20) days
 23 (rather than thirty (30) days) after the end of each month for which a
 24 return and payment are made if the department estimates that the
 25 entity's average monthly payment for the current calendar year will
 26 exceed one thousand dollars (\$1,000).

27 **(c) If the department determines that a withholding agent is not**
 28 **withholding, reporting, or remitting an amount of tax in**
 29 **accordance with this chapter, the department may require the**
 30 **withholding agent:**

31 **(1) to make periodic deposits during the reporting period; and**

32 **(2) to file an informational return with each periodic deposit.**

33 ~~(c)~~ **(d)** If a person files a combined sales and withholding tax report
 34 and either this section or IC 6-2.5-6-1 requires the sales or withholding
 35 tax report to be filed and remittances to be made within twenty (20)
 36 days after the end of each month, then the person shall file the
 37 combined report and remit the sales and withholding taxes due within
 38 twenty (20) days after the end of each month.

39 ~~(d)~~ **(e)** If the department determines that an entity's:

40 (1) estimated monthly withholding tax remittance for the current
 41 year; or

42 (2) average monthly withholding tax remittance for the preceding

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 exceeds ten thousand dollars (\$10,000), the entity shall remit the monthly withholding taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the remittance is due.

~~(e)~~ (f) If an entity's withholding tax remittance is made by electronic fund transfer, the entity is not required to file a monthly withholding tax return.

SECTION 3. IC 6-8.1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

- (1) members and employees of the department;
- (2) the governor;
- (3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or
- (4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

- (1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and
- (2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family and children, resources, and to any county director of a county office of

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1 family and children located in Indiana, upon receipt of a written request
 2 from either director for the information. The information shall be
 3 treated as confidential by the directors. In addition, the information
 4 described in subsection (a) relating to a person who has been
 5 designated as an absent parent by the state Title IV-D agency shall be
 6 made available to the state Title IV-D agency upon request. The
 7 information shall be subject to the information safeguarding provisions
 8 of the state and federal Title IV-D programs.

9 (d) The name, address, Social Security number, and place of
 10 employment relating to any individual who is delinquent in paying
 11 educational loans owed to an institution of higher education may be
 12 revealed to that institution if it provides proof to the department that the
 13 individual is delinquent in paying for educational loans. This
 14 information shall be provided free of charge to approved institutions of
 15 higher learning (as defined by IC 20-12-21-3(2)). The department shall
 16 establish fees that all other institutions must pay to the department to
 17 obtain information under this subsection. However, these fees may not
 18 exceed the department's administrative costs in providing the
 19 information to the institution.

20 (e) The information described in subsection (a) relating to reports
 21 submitted under IC 6-6-1.1-502 concerning the number of gallons of
 22 gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of
 23 gallons of special fuel sold by a supplier and the number of gallons of
 24 special fuel exported by a licensed exporter or imported by a licensed
 25 transporter may be released by the commissioner upon receipt of a
 26 written request for the information.

27 (f) The information described in subsection (a) may be revealed
 28 upon the receipt of a written request from the administrative head of a
 29 state agency of Indiana when:

30 (1) the state agency shows an official need for the information;
 31 and

32 (2) the administrative head of the state agency agrees that any
 33 information released will be kept confidential and will be used
 34 solely for official purposes.

35 (g) The name and address of retail merchants, including township,
 36 as specified in ~~IC 6-2.5-8-1(h)~~ **IC 6-2.5-8-1(j)** may be released solely
 37 for tax collection purposes to township assessors.

38 (h) The department shall notify the appropriate innkeepers' tax
 39 board, bureau, or commission that a taxpayer is delinquent in remitting
 40 innkeepers' taxes under IC 6-9.

41 (i) All information relating to the delinquency or evasion of the
 42 motor vehicle excise tax may be disclosed to the bureau of motor

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vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(j) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) This section does not apply to:

- (1) the beer excise tax (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

(m) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under ~~IC 6-2.5-6-14.~~ **IC 6-2.5-6-14.2.**

SECTION 4. IC 6-8.1-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3, the department must issue a demand notice for the payment of a tax and any interest or penalties accrued on the tax, if a person files a tax return without including full payment of the tax or if the department, after ruling on a protest, finds that a person owes the tax before the department issues a tax warrant. The demand notice must state the following:

- (1) That the person has ten (10) days from the date the department mails the notice to either pay the amount demanded or show reasonable cause for not paying the amount demanded.
- (2) The statutory authority of the department for the issuance of a tax warrant.
- (3) The earliest date on which a tax warrant may be filed and

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recorded.

(4) The statutory authority for the department to levy against a person's property that is held by a financial institution.

~~(4)~~ **(5)** The remedies available to the taxpayer to prevent the filing and recording of the judgment.

If the department files a tax warrant in more than one (1) county, the department is not required to issue more than one (1) demand notice.

(b) If the person does not pay the amount demanded or show reasonable cause for not paying the amount demanded within the ten (10) day period, the department may:

(1) levy against a person's property that is held by a financial institution under section 8(a) of this chapter; and

(2) issue a tax warrant for the amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable.

When the department issues a tax warrant, a collection fee of ten percent (10%) of the unpaid tax is added to the total amount due.

(c) When the department issues a tax warrant, it may not file the warrant with the circuit court clerk of any county in which the person owns property until at least twenty (20) days after the date the demand notice was mailed to the taxpayer. The department may also send the warrant to the sheriff of any county in which the person owns property and direct the sheriff to file the warrant with the circuit court clerk:

(1) at least twenty (20) days after the date the demand notice was mailed to the taxpayer; and

(2) no later than five (5) days after the date the department issues the warrant.

(d) When the circuit court clerk receives a tax warrant from the department or the sheriff, the clerk shall record the warrant by making an entry in the judgment debtor's column of the judgment record, listing the following:

(1) The name of the person owing the tax.

(2) The amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable.

(3) The date the warrant was filed with the clerk.

(e) When the entry is made, the total amount of the tax warrant becomes a judgment against the person owing the tax. The judgment creates a lien in favor of the state that attaches to all the person's interest in any:

(1) chose in action in the county; and

(2) real or personal property in the county;

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excepting only negotiable instruments not yet due.

(f) A judgment obtained under this section is valid for ten (10) years from the date the judgment is filed. The department may renew the judgment for additional ten (10) year periods by filing an alias tax warrant with the circuit court clerk of the county in which the judgment previously existed.

(g) A judgment arising from a tax warrant in a county may be released by **the department**:

(1) ~~the department or by the county sheriff~~ after the judgment, including all accrued interest to the date of payment, has been fully satisfied; or

(2) ~~the department~~ if the department determines that the tax assessment or the issuance of the tax warrant was in error.

(h) If the department determines that the filing of a tax warrant was in error, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed. The department shall mail the release as soon as possible but no later than seven (7) days after:

(1) the determination by the department that the filing of the warrant was in error; and

(2) the receipt of information by the department that the judgment has been recorded under subsection (d).

(i) If the department determines that a judgment described in subsection (h) is obstructing a lawful transaction, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the judgment was filed immediately upon making the determination.

(j) A release issued under subsection (h) or (i) must state that the filing of the tax warrant was in error. Upon the request of the taxpayer, the department shall mail a copy of a release issued under subsection (h) or (i) to each major credit reporting company located in each county where the judgment was filed.

(k) The commissioner shall notify each state agency or officer supplied with a tax warrant list of the issuance of a release under subsection (h) or (i).

(l) If the sheriff collects the full amount of a tax warrant, the sheriff shall disburse the money collected in the manner provided in section 3(c) of this chapter. ~~and then release the judgment.~~ If a judgment has been partially or fully satisfied by a person's surety, the surety becomes subrogated to the department's rights under the judgment. ~~and the sheriff may not release the judgment until the surety's rights under the judgment have been satisfied by the person.~~ If a sheriff releases a

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1 judgment:

- 2 (1) before the judgment is fully satisfied;
 3 (2) before the sheriff has properly disbursed the amount collected;
 4 or
 5 (3) after the sheriff has returned the tax warrant to the department;
 6 the sheriff commits a Class B misdemeanor and is personally liable for
 7 the part of the judgment not remitted to the department.

8 SECTION 5. IC 6-8.1-8-3 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) The county
 10 sheriff of a county shall attempt to levy on and collect a judgment
 11 arising from a tax warrant in that county for a period of one hundred
 12 twenty (120) days from the date the judgment lien is entered, unless the
 13 sheriff is relieved of that duty at an earlier time by the department. The
 14 sheriff's authority to collect the warrant exists only while the sheriff
 15 holds the tax warrant, and if the sheriff surrenders the warrant to the
 16 department for any reason the sheriff's authority to collect that tax
 17 warrant ceases. During the period that the sheriff has the duty to collect
 18 a tax warrant, the sheriff shall collect from the person owing the tax, an
 19 amount equal to the amount of the judgment lien plus the accrued
 20 interest to the date of the payment. Subject to subsection (b), the sheriff
 21 shall make the collection by garnisheeing the person's wages and by
 22 levying on and selling any interest in property or rights in any chose in
 23 action that the person has in the county. The Indiana laws which
 24 provide relief for debtors by exempting certain property from levy by
 25 creditors do not apply to levy and sale proceedings for judgments
 26 arising from tax warrants.

27 (b) A sheriff shall sell property to satisfy a tax warrant in a manner
 28 that is reasonably likely to bring the highest net proceeds from the sale
 29 after deducting the expenses of the offer to sell and sale. A sheriff may
 30 engage an auctioneer to advertise a sale and to conduct a public
 31 auction, unless the person being levied files an objection with the clerk
 32 of the circuit or superior court having the tax warrant within five (5)
 33 days of the day that the sheriff informs the person of the person's right
 34 to object. The advertising conducted by the auctioneer is in addition to
 35 any other notice required by law, and shall include a detailed
 36 description of the property to be sold. When an auctioneer is engaged
 37 under this subsection and the auctioneer files a verified claim with the
 38 clerk of the circuit or superior court with whom the tax warrant is filed,
 39 the sheriff may pay the reasonable fee and reasonable expenses of the
 40 auctioneer from the gross proceeds of the sale before other expenses
 41 and the judgment arising from the tax warrant are paid. As used in this
 42 section, "auctioneer" means an auctioneer licensed under IC 25-6.1.

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(c) The sheriff shall deposit all amounts that the sheriff collects under this section, including partial payments, into a special trust account for judgments collected that arose from tax warrants. On or before the fifth day of each month the sheriff shall disburse the money in the tax warrant judgment lien trust account in the following order:

(1) The sheriff shall pay the department the part of the collections that represents taxes, interest, and penalties.

(2) The sheriff shall pay the county treasurer and the clerk of the circuit or superior court the part of the collections that represents their assessed costs.

(3) Except as provided in subdivision (4), the sheriff shall keep the part of the collections that represents the ten percent (10%) collection fee added under section 2(b) of this chapter.

(4) If the sheriff has entered a salary contract under IC 36-2-13-2.5, the sheriff shall deposit in the county general fund the part of the collections that represents the ten percent (10%) collection fee added under section 2(b) of this chapter.

The department shall establish the procedure for the disbursement of partial payments so that the intent of this section is carried out.

(d) After the period described in subsection (a) has passed, the sheriff shall return the tax warrant to the department. ~~However, if at the end of this period the sheriff is in the process of collecting the judgment arising from a tax warrant in periodic payments of sufficient size that the judgment will be fully paid within one (1) year after the date the judgment was filed, the sheriff may keep the tax warrant and continue collections. When the tax warrant is returned, the department may exercise its collection powers alone, or it may allow the sheriff to continue collections in conjunction with the department. If the department and the sheriff engage in simultaneous collection efforts, the sheriff may retain for disbursement under subsection (c) only the part of the ten percent (10%) collection fee that is applicable to the part of the collections for which the sheriff is responsible. The department shall retain the rest of the collection fee.~~

(e) Notwithstanding any other provision of this chapter, the department may order a sheriff to return a tax warrant at any time, if the department feels that action is necessary to protect the interests of the state.

(f) This subsection applies only to the sheriff of a county having a consolidated city or a second class city. In such a county, the ten percent (10%) collection fee added under section 2(b) of this chapter shall be divided as follows:

(1) The sheriff may retain for disbursement under subsection (c)

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forty thousand dollars (\$40,000), plus one-fifth (1/5) of any fees exceeding that forty thousand dollar (\$40,000) amount.

(2) Two-fifths (2/5) of any fees exceeding that forty thousand dollar (\$40,000) amount shall be deposited in the sheriff's department's pension trust fund.

(3) Two-fifths (2/5) of any fees exceeding that forty thousand dollar (\$40,000) amount shall be deposited in the county general fund.

SECTION 6. IC 6-8.1-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. **(a) After ten (10) days have elapsed after the date on which a demand notice is issued under section 2(a) of this chapter, the department may levy upon the property of the taxpayer that is held by a financial institution by sending a claim to the financial institution. Upon receipt of a claim under this subsection, the financial institution shall surrender the taxpayer's property to the department. If the value of the taxpayer's property exceeds the amount owed to the state by the taxpayer, the financial institution shall surrender the taxpayer's property in an amount equal to the amount owed. After receiving the department's notice of levy, the financial institution shall place a sixty (60) day hold on or restriction on the withdrawal of funds the taxpayer has on deposit or subsequently deposits, in an amount not to exceed the amount owed.**

(b) After a tax warrant becomes a judgment under section 2 of this chapter or a tax warrant is returned uncollected to the department under section 3 of this chapter, the department may take any of the following actions without judicial proceedings:

(1) The department may levy upon the property of the taxpayer that is held by a financial institution by sending a claim to the financial institution. Upon receipt of a claim under this subdivision, the financial institution shall surrender to the department the taxpayer's property. If the taxpayer's property exceeds the amount owed to the state by the taxpayer, the financial institution shall surrender the taxpayer's property in an amount equal to the amount owed. After receiving the department's notice of levy, the financial institution is required to place a sixty (60) day hold on or restriction on the withdrawal of funds the taxpayer has on deposit or subsequently deposits, in an amount not to exceed the amount owed.

(2) (1) The department may garnish the accrued earnings and wages of a taxpayer by sending a notice to the taxpayer's employer. Upon receipt of a notice under this subdivision, an

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1 employer shall garnish the accrued earnings and wages of the
 2 taxpayer in an amount equal to the full amount that is subject to
 3 garnishment under IC 24-4.5-5. The amount garnished shall be
 4 remitted to the department. The employer is entitled to a fee in an
 5 amount equal to the fee allowed under IC 24-4.5-5-105(5).
 6 However, the fee shall be borne entirely by the taxpayer.

7 ~~(3)~~ (2) The department may levy upon and sell property and may:

8 (A) take immediate possession of the property and store it in
 9 a secure place; or

10 (B) leave the property in the custody of the taxpayer;
 11 until the day of the sale. The department shall provide notice of
 12 the sale in one (1) newspaper, as provided in IC 5-3-1-2. If the
 13 property is left in the custody of the taxpayer, the department may
 14 require the taxpayer to provide a joint and several delivery bond,
 15 in an amount and with a surety acceptable to the department. At
 16 any time before the sale, any owner or part owner of the property
 17 may redeem the property from the judgment by paying the
 18 department the amount of the judgment. The proceeds of the sale
 19 shall be applied first to the collection expenses and second to the
 20 payment of the delinquent taxes and penalties. Any balance
 21 remaining shall be paid to the taxpayer.

22 SECTION 7. IC 6-8.1-8-14 IS ADDED TO THE INDIANA CODE
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 24 JANUARY 1, 2007]: **Sec. 14. The commissioner may determine that**
 25 **an outstanding liability for taxes, interest, penalties, collection fees,**
 26 **sheriff's costs, clerk's costs, or fees established under section 4(b)**
 27 **of this chapter is uncollectible. However, any lien created by the**
 28 **operation of section 2(e) of this chapter survives the**
 29 **commissioner's determination, subject to section 2 of this chapter.**

30 SECTION 8. IC 6-8.1-8-15 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 32 JANUARY 1, 2007]: **Sec. 15. (a) As used in this section, "apparent**
 33 **owner" has the meaning set forth in IC 32-34-1-4.**

34 **(b) As used in this section, "unclaimed property" has the**
 35 **meaning set forth in IC 32-34-1-21.**

36 **(c) If an apparent owner of unclaimed property is subject to a**
 37 **tax warrant issued under IC 6-8.1-8-2, the department may levy on**
 38 **the unclaimed property by filing a claim with the attorney general**
 39 **in accordance with the procedures described in IC 32-34-1-36.**

40 SECTION 9. IC 6-8.1-9-3 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 3. This chapter**
 42 **does not apply to refund claims made for gasoline taxes under**

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1 IC 6-6-1.1, special fuel taxes under IC 6-6-2.5, ~~or motor carrier fuel~~
 2 ~~taxes under IC 6-6-4.1-7,~~ or the motor vehicle excise tax (excluding
 3 interest and penalties) under IC 6-6-5.

4 SECTION 10. [EFFECTIVE JULY 1, 2006] (a) ~~IC 6-2.5-8-1, as~~
 5 ~~amended by this act, applies to all registered retail merchant's~~
 6 ~~certificates renewed after December 31, 2006, regardless of when~~
 7 ~~the applicant applied to the department of state revenue to have~~
 8 ~~the certificate renewed.~~

9 (b) All registered retail merchant's certificates issued by the
 10 department of state revenue before December 1, 2006, expire on
 11 December 31, 2006. All registered retail merchant's certificates
 12 issued by the department of state revenue after November 30, 2006,
 13 and before January 1, 2007, expire on December 31, 2008.
 14 However, to spread the workload of renewing registered retail
 15 merchant's certificates throughout a state fiscal year, the
 16 department of state revenue may establish a staggered renewal
 17 schedule, delaying the expiration date that would otherwise apply
 18 under this SECTION to a certificate until the expiration date set by
 19 the department of state revenue. The department of state revenue
 20 may not delay the expiration of a certificate under this subsection
 21 for more than one (1) year.

22 (c) To carry out this act, the department of state revenue may
 23 adopt temporary rules in the manner provided for the adoption,
 24 filing, and publication of emergency rules under IC 4-22-2-37.1. A
 25 temporary rule adopted under this subsection expires on the
 26 earliest of the following:

- 27 (1) The date that another temporary rule is adopted under
 28 this subsection to replace the previously adopted temporary
 29 rule.
 30 (2) The date that a permanent rule is adopted under IC 4-22-2
 31 to replace a temporary rule.
 32 (3) January 1, 2009.

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